

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-12532-RWZ

ARESTY INTERNATIONAL LAW OFFICES P.C.

v.

HARTFORD FIRE INSURANCE COMPANY

PRETRIAL ORDER

September 9, 2005

ZOBEL, D.J.

This matter having come before the Court at a pretrial conference held pursuant to Rule 16, Fed. R. Civ. P., 28 U.S.C., and James T. Hargrove having appeared as counsel for plaintiff, Aresty International Law Offices P.C.; and Lawrence A. Dugan having appeared as counsel for defendant Hartford Fire Insurance Company, the following action was taken:

1. TRIAL

Trial to the Court is scheduled to commence on September 19, 2005, at 9 a.m.

2. ISSUES

The parties agree that the only issues to be tried are:

- a) whether defendant correctly denied coverage on the grounds of fraud and exaggeration;
- b) whether defendant violated Mass. Gen. Laws ch. 93A by denying the

claim improperly;

- c) whether plaintiff lost “valuable papers” as a result of the flood and, if so;
- d) the value of the papers.

The parties agree that “value” is to be measured by the cost of replacing the papers - largely research memoranda. They disagree whether “replacement” cost includes the cost of research, and they disagree about the extent of coverage, whether only expenses actually incurred are payable or also those that may be incurred in the future.

The parties agree as to the amount of the loss for physical damage, except as noted in subparagraph (d) above.

The parties further agree that plaintiff has the burden of proof on issues (b), (c) and (d); defendant has the burden on (a). Plaintiff will present its case first, by agreement of the parties.

3. WITNESSES

On or before September 15, 2005, each party shall file a list of witnesses who will testify at trial.

4. EXHIBITS

Prior to the commencement of trial on September 19, 2005, counsel shall confer with each other concerning any exhibits each intends to offer and note any objections each may have to the exhibits of the other. All exhibits to which opposing counsel do not object shall be deemed to be admitted into evidence. Counsel shall mark these exhibits, prepare a listing thereof, and file four copies. Objected-to exhibits shall be

marked for identification and listed separately.

5. TRIAL BRIEFS

Trial briefs shall be filed by the first day of trial, September 19, 2005.

DATE

/s/ Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE